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Property Rights and Subjective Rights in Juan de Mariana

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Abstract: This working paper aims to point out the ideas defended by the Spaniard Juan de Mariana in the early XVII century in his book "De Rege et Regis Institutione" and in his monetary treatise "De Monetae Mutatione". Juan de Mariana not only summarized the ideas of the Spanish scholastics in such books, but also added powerful arguments to the defense of private property against the different forms of state coercion, a key concept in the political economics of an open society. That is to say, he bravely defended the strict protection of citizens' private property and subjective rights against the reason of State and tyrants. As a result, his book "De Rege et Regis Institutione" was burned in public in 1610 by order of the French Parliament. Furthermore, due to his monetary treatise, he was investigated by the court of Inquisition, which ordered his preventive imprisonment for one year. His work "De Monetae Mutatione" was persecuted in Europe by the Spanish ambassadors, who were ordered to recover and destroy all copies of his monetary masterpiece. There is no doubt that he was well known throughout Europe in the early decades of the XVII century, which was precisely when he clearly explained the main economic concepts which have been reflected in the works of later authors.

Key words: History of Economic Thought, School of Salamanca, Property Rights, Subjective Rights, Law and Economics.

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1. INTRODUCTION.

The economic analysis of Law was already carried out in the sixteenth century by the School of Salamanca from the perspective of "natural law", in a serious and rigorous manner, in line with the causal relationships responsible for economic growth.

The Spanish scholastics confidently dealt with issues that are highly relevant today such as property rights, the law of nations, international law, the principle of consent of the citizens, the role of the state, the subjective value of goods, the relationship between prices and costs, taxes, alterations in the value of coinage, or international free trade.

In this working paper we shall discuss the work, the context, and the contributions to the economic analysis of Law made by the Spanish scholastic Juan de Mariana, who exerted a significant influence in Europe in the late sixteenth and early seventeenth century, in such diverse fields of knowledge as the philology of classical and Oriental languages, theology, history and political economy.

For this reason, the German hispanist Ludwig Pfandl¹ compared Juan de Mariana (1535-1624) with the universally known writer Miguel de Cervantes (1547-1616), on account both of their contemporary lives and of the virtuosity of their respective work, deeming that, in the Spanish language, Juan de Mariana's work is to the social sciences what the work of Miguel de Cervantes is to literature.

In the field of History of Economic Thought, two works by Juan de Mariana are notable for their boldness and their ideas: the book "*De Rege et Regis Institutione*" and, most particularly, the short treatise "*De Monetae Mutatione*".

First at all, we shall review the value and importance of the ideas of the School of Salamanca to historians in recent decades, which is to be noted, because Father Mariana's thought is heir to the ideas of the School of Salamanca, whose ideas he summarized and refined with unique contributions.

Secondly, we shall briefly review the biography of Juan de Mariana, of which it is worth highlighting his privileged position as a learned historian in the court of King Philip II, who ruled the Spanish Empire at the time.

This is followed by a brief description of Spanish society in the sixteenth and seventeenth centuries. At that time, Spain was a model modern state and the first world power in the

¹ Ludwig Pfandl, "Spanische Kultur und Sitte des 16. und 17. Jahrhunderts: eine Einführung in die englische Literatur und Blütezeit der Kunst, München, Pustet Josef Kosel & Friedrich, 1924. Translated as "Culture and customs of the Spanish people of the sixteenth and seventeenth centuries: introduction to the study of the Golden Age", Barcelona, Ed Araluce, 1929, reprinted in Madrid, Visor Books, 1994. I suppose the educated reader will know that Miguel de Cervantes published the novel "Don Quijote de la Mancha" in two parts, the first part published in 1605 (The Ingenious Hidalgo Don Quixote de la Mancha) and the second part published in the year 1615 (The ingenious gentleman Don Quixote de la Mancha).

sixteenth century. Philip II inherited most of the possessions of his father Charles I and his mother Isabel of Portugal, covering territories in Europe, America, Africa, Asia and Oceania, owing to which it was called the "empire where the sun never set."

Lastly, based on our knowledge of the context of the work of Juan de Mariana, we shall discuss the political economy of Juan de Mariana, developed around private property and subjective rights.

2. AN HEIR TO THE SCHOOL OF SALAMANCA.

The research by Professor Margorice Grice-Hutchinson (1952) amply demonstrated the way in which Hispanic scholastic thinking played a pivotal role in establishing and spreading throughout the rest of Europe the first notions about the market and its workings:

Spain has not been widely regarded as the cradle of liberal economic ideas, but rather as the site of a "black legend" which sees nothing but persecution and repression in Spanish history. It is clear that in such country it is difficult to expect the idea of a market to flourish. However, when we look more closely at the development of economic thought in Spain, occasionally we find some elements that prefigure the pattern of a market economy.²

Along with other authors, Professor Joseph Schumpeter (1954) introduced the later scholastics³ in his History of Economic Analysis:

...was in the systems of moral theology of the later scholastics where economics definitely won, if not its independent existence, at least a distinct existence; these are the authors that can be said with the least inconsistency to have been the founders of scientific economics. What is more: the foundations laid for a useful and well integrated body of analysis tools and propositions were stronger than much of the later work, in the sense that a considerable part of nineteenth century economics could have developed from those foundations with more ease and less effort than it really cost to develop it, and, therefore, part of the work carried out between these two phases has been something of a wasteful detour in terms of time and effort.

Without doubt, the term School of Salamanca has been accepted by a majority of economic historians, thanks to the broad dissemination of Professor Grice-Hutchinson⁴'s academic works.:

Schumpeter was right to say that the core of the School of Salamanca was composed of later scholastics. Truly, I cannot think of any member who was not one of them. But we cannot accept that some of the most distinguished among them happened by chance to be Spanish and that there was nothing specifically Spanish in their writings. It would be difficult to find a writer more

2 (GRICE-HUTCHISON, 2005, p.181). For further information please refer to the introductory study of professors Luis Perdices and John Reeder, pages 15-67.

3 (SCHUMPETER, 1954, p.141 and f.).

4 (GRICE-HUTCHISON, 2005, p.90). We recommend the introductory study of professors Luis Perdices and John Reeder, pages 15-67.

completely Spanish than Mercado, who wrote in very pure Castilian his manual for the instruction of the merchants of Seville, his hometown, and modified, developed and illustrated the traditional doctrine with constant references to the events he observed in his time. Also, Azpilcueta formulated his own version of the quantity theory and PPP theory in order to explain the price increases in Spain and the turning of the exchange rate against Spain.

Although she was using the term already coined by Jose Larraz (1943)⁵, it was professor Grice-Hutchinson who adopted and popularized the use of the term School of Salamanca, both in economic affairs and in other disciplines. And, in any case, she also defended the use of the more generic term "Spanish scholasticism".

*I would like to suggest continuing to use the term "School of Salamanca", which has been established by several generations of historians to refer specifically to Francisco de Vitoria, his colleagues, his disciples and his main followers, both in the field of economics and in other disciplines to which they devoted their main efforts. It should be borne in mind that we were made to study their economic thinking and, to this end, we isolated it from the rest of their teachings, but in reality it is connected with them, ...the other doctors of the XVI century we will have to be content, for now with the generic name of "Spanish scholasticism"*⁶

This preamble aims to frame the legacy picked up by the author discussed in our study, the Jesuit monk Juan de Mariana, who can be regarded as the Spanish philosopher that best represents the transition between the sixteenth and the seventeenth centuries, making use of all the main ideas of the scholastics and refining some of them to disseminate them with initial success throughout Europe. But it is likewise true that his works also contain some "interventionist" ideas.

In fact, it must be pointed out that Juan de Mariana cannot be said to properly belong to the School of Salamanca. His thinking lies half-way between the scholastic ideas of the sixteenth century and the seventeenth-century "interventionist" ideas.

5 LARRAZ, J. (1943), «La época del mercantilismo en Castilla (1500-1700)», Discurso de recepción del Académico de Número Excmo. Sr. D. José Larraz López (sesión del 5 de abril de 1943), Madrid, Real Academia de Ciencias Morales y Políticas.

6 Professor Oreste Popescu proposed the terms "Hispanic scholastics" (POPESCU, 1986) and "Hispanic American Scholastics" (POPESCU, 1987). However, it can be interpreted that these denominations may misrepresent the origin of the authors, since most of them were born in Spain, either monks or civil servants of the Spanish State, and lived in territories that belonged to the Empire of Spain, both in Europe and in America where, at the time known as "overseas territories" forming also part of Spain. At that time, all the inhabitants of the Spanish Empire called themselves "Spanish", even when they were born in the mainland territories of the kingdoms of Castile and Aragon, or in the American new continent. Therefore, the use of other terms such as "Hispanic scholastics" or "Hispanic American", is only an attempt to establish an emotional attachment to the countries formed after the independence process, which are seen as more appropriate (and politically correct) nowadays, but they were not commonly used in the sixteenth and seventeenth centuries. For this reason, we understand that the name "Spanish scholastics" is sufficiently broad and includes all authors, as they were Spaniards of European origin, either scholastics or lay persons (who argued also on the basis of natural law and scholastic ideas) at the service of the government of the Kingdom of Spain or the Viceroyalties into which were organized the "overseas territories" which consisted of: the Viceroyalty of New Spain, Viceroyalty of New Granada, Viceroyalty of Peru, Viceroyalty of the Rio de la Plata and also between 1580 and 1640, the Viceroyalty of Brazil. In any case, it is true that the Scholastic writers form an important part of the genetic inheritance, the socio-cultural evolution and the common thought shared by all Latin American countries, whatever the final name used to refer to them.

So why do we believe that he inherited the ideas of the School of Salamanca despite the fact that he does not belong to that school of economic thought?

First, his writings show a high degree of independence, without resorting to authoritative arguments by contemporary or prior scholastics. In fact, he did not explicitly cite the scholastics in his works, preferring to base his arguments by quoting the classics and providing historical examples⁷.

There is no evidence that he studied or was a disciple of any of the eminent thinkers of the School of Salamanca. When we analyze his works on political economy, we find no quotes from contemporary authors, not even explicit quotations of St. Thomas Aquinas, although they contain many arguments about the origin of society and the possibility of exercising tyrannicide resulting from the right of rebellion against a tyrant, in which he fully agrees with the ideas of Aquinas.

On the other hand, it is clear that he inquired into previous scholastic knowledge in matters addressed in his works, although he was neither a student nor a disciple of any thinker of the School of Salamanca. In fact, his works were written from a small cell in a Jesuit convent in Toledo, far from the University of Salamanca.

In our humble opinion, Juan de Mariana is a Spanish scholastic but cannot be said to form part of the School of Salamanca, although he adopted and refined the notions of natural law and many economic concepts from the previous scholastic authors.

As we shall see, Juan de Mariana achieved the maximum expression of scholastic ideas with his strong defense of private property and the principle of consent to momentous decisions of a King (or "*mutatis mutandis*" of a modern State), as institutions essential to the development of a civilized society.

3. THE LIFE AND WORK OF JUAN DE MARIANA (1535-1624).

Juan de Mariana was born in 1535 near Talavera de la Reina (a small Spanish city, in the South of Europe) and died in Toledo in 1624. Due to his long life, his works were influenced and affected by the political decisions of several Kings of Spain: Charles I (1514-1556), Philip II (1556-1598), Philip III (1598-1621), and Philip IV (1621-1665).

7 (MARIANA, 1981, pp. X-XLV). In the introductory study of the edition, Professor Sanchez Agesta states that Juan de Mariana in "De Rege et Regis Institutione" quoted the classics: Aristotle 20 times, Plato 12 times, Tacitus 6 times, St. Augustine 5 times and Virgil 4 times. He also notes that Juan de Mariana repeatedly refers to "serious and erudite authors". It is easy to recognize similarities with St. Thomas Aquinas ("De Regimine principum") in some of Juan de Mariana's ideas. Professor Sánchez Agesta explained the possible similarities of the work of Juan de Mariana with Fernando Vazquez de Menchaca ("Controversiarum Illustrium"), but we understand that it is not sufficiently proven. Father Juan de Mariana used to make use of historical events to explain his arguments on political economy, which is easily explained, because he was the most famous historian of the court of Philip II and, by royal commission, wrote the first modern book on Spanish History in 1592 "Rebus Hispaniae History." For example, it is worth highlighting his quotes on Money alteration during the fifteenth century in the Court of the Catholic Kings.

He joined the University of Alcalá in 1547, where he studied philosophy and theology. There, he became acquainted with the religious order of the Society of Jesus, which was founded in 1534, and joined it in 1550. He completed his novitiate at the Convent of Simancas in 1552, was ordained as a Jesuit monk and returned to Alcalá to finish his university studies.

He taught theology in various European cities. First he gave lectures at the Jesuit College in Rome in 1561 and later in Loreto and in Palermo (Sicily). Subsequently he was in Paris (France) where he received his PhD in Theology in 1569 from the University of the Sorbonne, and where he taught theology for five years. It seems that at that time he may also have given some lectures in Flanders (currently the Netherlands).

In 1574 he returned to Toledo (Spain) owing to health problems resulting from his intense academic activity. In his intellectual retreat he devoted his time to studying and to writing his books.

Juan de Mariana first became famous through the publication in 1592 of his famous book on the history of Spain ("*Historiae de rebus Hispaniae libri XX* ") dedicated to King Philip II, and considered to be the first scientific book on the history of Spain.

His own Spanish translation was published in Toledo in 1601. Subsequently, in 1606, in the Germanic city of Mainz, a monumental expanded edition was published containing 30 volumes called "*Historiae de rebus Hispaniae libri XXX*". It was published in 1699 in England under the title "General History of Spain."

It is highly likely that his great knowledge of history and of the serious financial problems of the State at that time led him to write his books on economic analysis of Law, in which he addressed sensitive issues regarding the economic policy of the Spanish Empire.

In 1599, Juan de Mariana published his work "On the King and the Royal Institution" ("*De Rege et Regis Institutione Philippum III et Hispaniae Regem catholicum*"), dedicated to King Philip III, since it was commissioned by his guardian Loaysa directly by order of his father, the previous King Felipe II, in order to instruct his son on how deal with the principal State issues.

On account of his independent thought and his erudition, Juan de Mariana was held in great consideration by Philip II. His descendants in the Habsburg royal family consented his vehement character and his critical thinking. Thus, he was able to express himself without either censure or rejection by the King's Court, compared with the other contemporary authors, despite the fact that his controversies were raised sharply against the civil and ecclesiastical power.

However, in 1610 his book "On the King and the Royal Institution" ("*De Rege et Regis Institutione*") was publicly burned in the kingdom of France by order of the Parliament of Paris, after King Henry IV was assassinated by the monk Ravillac, although the murderer pleaded not to know the book.

The reason for the censorship of the book was its eulogy of the murder of Kings that oppress their subjects and, therefore, rule as tyrants, based on the true story of the tyrannicide of the former king Henry III of France in 1589. There is certainly no doubt that this book was well known by the Parliament of Paris which sent its order of censorship to other Parliaments in

the rest of Europe, to have all copies of the book destroyed in other countries.

After his book giving advice to King Felipe III on State issues and various works in other fields, in 1607 Juan de Mariana published the "*Seven Treaties*" ("*Tractatus Septem*"), which included the short monetary treatise: "*On the alteration of the currency*" ("*De Monetae Mutatione*").

Probably at the behest of the favorite advisor of King Philip III, the illustrious Duke of Lerma, chiefly alluded by Juan de Mariana's work as being responsible for the policy of altering coinage value, the court of the Inquisition questioned Juan de Mariana, an aged man of 72 at the time.

His defense was exemplary and there was no sentence published in the manuscript copies of the proceedings. However, despite the consideration he enjoyed in the King's court, was kept under arrest in the convent of San Francisco el Grande (Madrid), which has since disappeared, from September 1610 to October 1611, and was barred from any writing or access to books during his imprisonment.

After the court scandal, he continued studying and writing from the city of Toledo, but his writings were confined to the religious sphere, and he only published a critical analysis of the Greek translation of the New Testament and a review of the Commentary of the Prophets by the Jesuit priest Francisco de Rivera.

Death took him by surprise in 1624 while working in Toledo on his latest book "*Scholia to the Old and New Testaments*". But his works continued arousing intellectual debate between the political and religious leaders.

After his death, his work "*Discourse on the Matters of the Society of Jesus*" was published in 1625, which was also controversial due to his criticism of the governance of the Jesuits. It was probably written in 1605, but was not published then by order of his superiors, on account of its critical content towards the very customs and governance practices of the religious order at the time.

Following his death, just like during his life, the King's favorite, the courtiers, the clergy and the ambassadors tried to buy all copies of his most controversial books in the major European cities in order to withdraw them from the market and thus suppress his criticisms in the "*Discourse on the Matters of the Society of Jesus*" and in his works on political economy "*De Rege et Regis Institutione*" and "*De Monetae Mutatione*".

Today it is extremely difficult to find copies of his works in libraries, or new editions of his books, which says very little about the memory of a nation like Spain, which is quite outrageous when you consider that the author put together in his famous "*General History of Spain*" the first scientific study of the history of the Spanish Empire and its territories in Europe, America, Africa, Asia and Oceania.

The emergence of political interests in University colleges, which attempt to distort the history of peoples, as well as an attitude of academic neglect towards political economy studies, or the simply scandalous cultural apathy towards the study of the intellectual baggage of the Spanish Golden Age outside the sphere of literature, have made it a treasure-hunter's job to

find copies of the works of Juan de Mariana throughout Europe.

His intellectual work was critical of absolutism, tyrants and, in general, the absolute power of the State, which does not exactly make it easy for his books to be reprinted with public funds, thereby ensuring the continuation and dissemination in academic circles of his liberal ideas, which advocated strict respect for private property, for economic freedom, for political democracy, and for a healthy currency free of distortions by central banks.

4. SPANISH SOCIETY IN THE XVI AND XVII CENTURIES.

Those readers who are more knowledgeable about the Spanish Empire can move on to the next section in this working paper, since we shall now discuss the political and socio-cultural context of Spain in the sixteenth and seventeenth centuries with a view to framing within it the work of Juan de Mariana and in order to provide a picture of the problems that had to be addressed by the Spanish scholastics.

4.1. Population and social structure.

The population of Spain and Portugal is estimated to have been about 9 million people in the early sixteenth century and about 11 million at the beginning of the seventeenth century. The Modern State was still relatively recent, developed with a tax system and an incipient public administration around the figure of the King and his family and ensuring the safety of the population in territories grouped under a single national feeling.

The middle class increased in number and wealth in the cities, thanks to its entrepreneurial spirit, favored by business undertakings involving the new continent and the increase of trade with the European territories controlled by the Spanish crown. However, peasants bore a higher tax burden as a result of wars and, especially in Castile, many migrated to nearby territories with lower taxes like Aragon, or to the overseas territories in search of new life opportunities.

4.2. Technology and Economy.

Between 1450 and 1700 there were significant developments in maritime transport in Europe, resulting from both new technology allowing the building of larger boats and from improved navigation techniques, leading to strengthened trade relations between European cities, with hardly any bureaucratic restraints, giving rise to a golden age for merchants.

In the early sixteenth century, Mediterranean Europe was the most advanced and enjoyed the highest income thanks to the intense trade between its nation states. Following his military conquests, the Kingdom of Spain extended his territories in the Mediterranean to include the southern Italian peninsula and the islands of Sicily and Sardinia, which had previously been conquered by the Crown of Aragon.

However, it was the discovery of America by Christopher Columbus for the Crown of Castile in 1492 that resulted in the incorporation of vast overseas territories to the European crowns, particularly to the Kingdom of Portugal and the Kingdom of Spain.

The development of towns and cities in America was accompanied by increased trade resulting from an influx of new products on both sides of the Atlantic. Huge quantities of gold and silver arriving in Europe were used as currency on account of their twofold function as a store of value and a medium of exchange.

The enormous increase of capital, with the arrival in Cadiz and Seville of boats with their holds full of money in gold and silver from the mines of the Overseas Territories in America, and in quantities far exceeding the growth in production goods and services, gave rise to inflation in the period from 1500 to 1620⁸.

The excessive increase in money supply drove up the prices of other production factors, both natural resources and wages for labor.

However, due to the wars over territory, religion and power in Europe and piracy in the oceans, the mercantilist doctrine finally triumphed throughout Europe during the XVI and XVII centuries. The court of Spain, like most nation States in Europe, was governed using political justifications of "reason of State" that supported a narrow view of the economy of each nation.

4.3. The State in XVI and XVII Spain

Spain was established as a modern state with a nascent administration formed by the military, lawyers, tax collectors and ambassadors who served the state and the royal court.

The size of the state during the pre-industrial era has been estimated at 5% of national income⁹. Public revenues and the structure of public demand depended on the "needs" of that pre-industrial State which served the King, the nobility and the clergy and, in general, consisted of:

8 (FERNANDEZ, 2006, p.157). The French silver coin lost 66% of its silver content between 1514 and 1666, causing price inflation. The Genoese "lira" lost 30% between 1620 and 1700. The Dutch currency was devalued by 44% between 1548 and 1622. And the "denarius" of Munich lost 75% of its silver.

9 (CIPOLLA, 1976, p.61). As pointed out by Professor Cipolla, the size of the modern state in pre-industrial economies represented only 5% of national income. Certainly, *mutatis mutandis*, this is nothing compared with the state sector in industrial and technological nations in Europe today, which in the late twentieth and early twenty-first century maintain a public sector size exceeding 40% in most Western European countries and can represent up to 52% in Denmark and 55% in Finland. Today, communist states (Cuba, North Korea, Myanmar, ...) would fall into a special category, where there is no private property and, therefore, the public sector embraces the whole of society by reducing the economy to government planning and the mere subsistence of the population, i.e., poverty and hunger. Without property rights, there are no economic incentives to produce and exchange goods and services, as a result of the disappearance of the market price mechanism due to the impossibility of economic calculation, forecast by Ludwig von Mises in 1920. The crucial importance of Spanish scholasticism lies in its strong arguments in favor of civil rights, property rights, the principle of consent and free trade, against the absolute power of the State.

- *Wars and defense*, which accounted for up to 50% of public expenditure, because armies and naval fleets were the means of assuring the safety of subjects and trade routes and defending or conquering territories.
- *Civil Administration*, which consisted mainly of representation costs and spending on embassies, as well as on lawyers, judges, notaries, accountants and tax collectors.
- Life in the King's and/or the Prince's Court, which played a major role in appeasing the palace plots and conspiracies.
- *Festivities* ¹⁰, which served practical purposes and had symbolic value, since they amused the masses, appeased poor people with charity, and gained the support of the subjects by the symbolic identification of their interests with those of the nation represented by the King. For this reason, the State organized its great celebrations to mark religious events, military victories, the birth of an heir, the return to health of the Prince, or the end of an epidemic.

The task of colonization was so hard and intense that many European nation States always had a negative trade balance and a pronounced deficit in their public accounts. In particular, the kingdoms of Portugal and Spain needed to cover their extraordinary expenses with loans for the development of new overseas territories and to pay for the wars.

Defense spending accounted for more than 50% of public expenditure in times of war, and these were many and very diverse during the sixteenth and seventeenth centuries, causing a public deficit which was covered by more loans (voluntary or enforced), more taxes and, finally, devaluation of the currency to pay for the additional military spending.

To finance the growing costs of the State and, especially, to wage the various territorial wars against other nations and the costly and arduous expansion into new continents, it was customary for the king and his Court to ask for increasing loans from central and northern European banks, which later on were paid off with taxes levied on the population or with depreciation of the fiduciary currency. The tax collection system was highly developed in the Spanish Empire, and lending and borrowing was frequent between the various viceroyalties, or between them and the Royal Treasury.

¹⁰ (CIPOLLA, 1976, p.97). At the end of sixteenth century, Lombardy's festivities added up to 96 days and the guilds of Venice imposed abstention from work in up to 80 to 90 annual events. The same happened in Spanish cities. However the Protestant Reform significantly reduced the number of holidays and imposed moral standards oriented towards personal fulfillment through work, increasing productivity and trade in Central and Northern Europe and especially in England, which drove this country towards the Industrial Revolution in the late eighteenth and early nineteenth centuries.

4.4. Political expansion and wars.

The expansion in America peaked at the time of Philip III ¹¹, during which the crown of the Kingdom of Spain covered all the large American regions between Tierra del Fuego in the south of the continent and the Great Lakes area in the north.

Absolutism was introduced as a form of government during the sixteenth and seventeenth centuries, leading to the gradual disappearance of the fledgling parliamentarianism of the Councils of Castile, the Aragon Courts and the Valencia Courts, which were active in the fifteenth century and where representatives of the cities, gentry and clergy could discuss the main issues of State and exercise a veto over certain decisions of the King and his Court.

The greatest power in Europe in the sixteenth century was the kingdom of Spain, not because of its small peninsular population (only 9 million inhabitants between Castile and Aragon) nor on account of its territorial expansion in Europe, but as a result of its discovery of America in 1492, which marked the beginning of a colonizing adventure and an international trade activity with the American continent on an unprecedented scale in human history.

However, the enormous colonization effort, together with the constant wars against Protestant Europe, led by Britain, and against Catholic Europe led by France, allies of convenience against the Spanish power, where at the origin of the slow decline of the Spanish Empire.

It must be taken into account that the colonization efforts were intense and exhausting, involving the building of new cities, each with its Mayor, city council, justice court, police force, warehouses, banks, schools, universities, army facilities, etc, the beginning of modern trade by means of naval fleets which transported large quantities of new goods between the two continents, and the organization of a new society based on the rule of Law, private property and the fulfillment of contracts.

4.5. Culture and Religion

Perhaps most damaging to the Spanish Empire was religious intolerance involving the coercion and imprisonment by the court of Inquisition, and the arrogance and ineptitude of the high classes in the face of new ideas, which forced the lack of academic continuity of Spanish scholastic thinking in the sixteenth and seventeenth centuries¹².

The lack of advisers who followed the causal relations in Economics, which had so masterfully been identified by the scholastic authors of the School of Salamanca, was the main cause of

¹¹ The intellectual and economic decline of the Spanish Empire was evident after Philip III, who represented the transition between the peak reached by Charles I and Philip II and the decline of Philip IV and Charles II.

¹² (MARTIN, 2000, p. 33-49). Professor Victoriano Martin analyzes the reasons for the large difference between the contributions made by the Spanish scholastics of the sixteenth century and the limited analytical value of economic thought in the Spanish economists of the XVII, XVIII and XIX centuries. There were some notable exceptions, like the Jesuits Juan de Mariana, Francisco Suarez and Juan de Lugo in the seventeenth century, although it is clear that their ideas had not taken root in the political power circles where decisions were made.

the ill-advised economic policy in Spain during the seventeenth century¹³ and in subsequent centuries until well into the twentieth century.

In Catholic countries, the clergy positioned itself on the king's side in order to maintain their privileges and dogmas of faith. In response to the Protestant Reformation in northern Europe, the Catholic Church launched a battery of Counterreformation actions, such as the banning and burning of books, the reintroduction of the Court of Inquisition, the wording of the catechism, the rigid discipline and the reorganization of the clergy.

The Catholic Church received support from the crown of Spain, which fought Protestant outbreaks, scientific advances and any form of thought that deviated from the status quo. In general, the Church authorities exercised a pernicious influence on the ruling classes, mixing the doctrine of faith and the reason of State in the adoption of mistaking political and economic decisions. The Royal Confessor advised the King in spiritual matters but, in most cases, exerted his influence regarding temporal affairs with the advice of the royal favorite.

Perhaps that is the main reason why there was a break with the economic ideas of the Spanish scholastics, many of whom were professors and lecturers in the universities, and the key factor leading to political leaders not receiving the proper advice.

Therefore, the authorities took erroneous decisions which did not follow the causal relationships, identified by the School of Salamanca, with the universal ideas that are the foundations of economic development in any country and at any time.

Paradoxically, despite the ill-advised handling of economic issues, the intense cultural exchange and trade between the Iberian Peninsula and the rest of Europe and its overseas territories in the continents of Africa, America, Asia and Oceania in the sixteenth and seventeenth centuries was accompanied by the Golden Age of culture in Spain.

There were famous writers (Cervantes, Lope de Vega, Calderón de la Barca, Quevedo, Góngora), outstanding painters (Velázquez, Zurbarán, Claudio Coello) and intense sculptors (Alonso Berruguete, Gregorio Fernández, Alonso Cano). Also there were distinguished architects (Rodrigo Gil de Hontañón, Juan de Herrera, Pedro Machuca), refined musicians (Cristóbal de Morales, Francisco Guerrero, Tomás Luis de Victoria) and notable philosophers (Juan Luis Vives, Baltasar Gracián). In addition, the School of Salamanca made an especially interesting contribution with its argumentations and new ideas on Law, Economics or Philosophy.

Therefore, there were many intellectual and artistic works worthy of praise, which were a far cry from the "*black legend*" woven from libels, lies and the Europeans pamphleteers who opposed the interests of the Spanish Empire.

¹³ (PERDICES, 1996, p. 109 y ss.) Professor Luis Perdices, in his book "La Economía Política de la decadencia de Castilla en el siglo XVII. Investigaciones de los arbitristas sobre la naturaleza y causas de la riqueza de las naciones", highlighted the political obstacles that hindered economic growth and which were introduced by the so-called "arbitrista" (interventionist) authors of the seventeenth century such as, for example, excessive legislation, protectionist trade policy, taxation, abuses against private property and its unequal distribution, which prevailed over ideas of Spanish scholasticism and forced the economic decline of Spain.

5. ECONOMIC ANALYSIS OF LAW IN JUAN DE MARIANA.

Having already discussed the life and work of Juan de Mariana and described the historical and socio-cultural context of the Spanish Empire in the XVI and XVII centuries, in which he published his works, we can now undertake the analysis of his writings in order to gain a better understanding of the scope of his political economy.

5.1. Property Rights in Juan de Mariana.

Regarding property rights, the work of Juan de Mariana reflects some of his ideas in the first edition of his book "On the King and the Royal Institution", published in 1599.

But perhaps Aristotle was the first to realize the benefits of private property versus the common use of assets: "what is common to a large number of people gets minimal care."

Initially, the Catholic Church was opposed to private property, denying that there was a natural right to private property and asserting that the sinfulness of man called for the existence of some form of private property resulting from human or positive law. It was St. Thomas Aquinas¹⁴ that picked up the Aristotelian legacy in the thirteenth century, and later the scholastics of the School of Salamanca used Aquinas's theses in answer to the humanism of the Renaissance.

Juan de Mariana also picked up the intellectual legacy of Aquinas and distilled his scholastic thought, realizing, many decades before the writings of some famous Scottish thinkers, that private property is legitimized by the work of each person.

Additionally, he gave institutional value to property, conceiving it as the necessary incentive for men to unite in a society and as a prerogative of citizens against the absolute power of the King¹⁵ or, *mutatis mutandis*, the omniscient power of the modern State.

The Jesuit argued for the need for cooperation among men as a way of adapting to the hostile environment and catering for all their needs through the production of and trade in goods, based on the division and specialization of labor:

"...it is thus that man, who initially was deprived of everything, without even weapons to defend himself nor a home in which to shelter, is today surrounded by goods thanks to the effort made in partnership with others, and enjoys greater

¹⁴ St. Thomas Aquinas (1225-1274) wrote his book "The Monarchy" between 1265 and 1267. Based on biblical texts, the doctrine of the Church and the teachings of philosophers, it was a handbook on the moral and ethical standards required of the King, justifying the right of rebellion and the execution of a king by the people if he acted as a tyrant.

¹⁵ (MARTIN, 2002, p.131). Juan de Mariana has a more proactive view of the behavior of state and society than the common view in the School of Salamanca, which is usually more institutional, believes professor Victoriano Martin in his book "Economic Liberalism".

resources than all other animals, which originally seemed endowed with better means of preservation and defense."

(Mariana, 1981, p. 24)

But, in the thought of Juan de Mariana, society arises prior to the emergence of the political organization, as it is required in advance by human nature and arises from the enrichment resulting from the exchange of skills and activities among men.

Subsequently, the state emerges¹⁶ only as the institution ensuring the safety of people and their property in a hostile environment:

"...like those solitary beasts which fear the stronger and prey on the less ferocious, and fall with impunity upon the fortunes and lives of weak men. And there was less safety, the strongest ganged together, devastated the fields, stole livestock and destroyed villages, committing all kinds of abuses, showing great cruelty to those who dared resist; robberies, looting and killings were carried out with impunity and there was no safe place for innocence and weakness."

(MARIANA, 1981, p. 23)

Therefore, to Juan de Mariana, men felt the need to associate and to choose one of them who "stood out among the others for his loyalty and sense of justice" because then:

"...public and private violence would be avoided, a certain equality would be established and all subjects maintained according to the same rights without distinction as to social status"

(MARIANA, 1981, p. 23)

If we analyze the previous texts, we realize that Juan de Mariana believed it was essential for the development of society that the association between men be organized in order to secure property and ensure justice, with a set of laws to ensure equality before the law for all citizens.

Admittedly one can, however, read interventionist ideas in the work of Juan de Mariana, following the common doctrine of scholasticism, which grants powers to the State to intervene in the ownership structure in the following cases:

- When there is an accumulation of goods arising under privileges.
- When there is arbitrariness in agriculture, i.e. the accumulation of land obtained by previous privileges and which is not farmed.

¹⁶ (BOIS, 2001, p.163-164). The Testament of Philip Augustus in 1190 already reflected the gradual process of concentration of power in the State, the development of instruments of Government and the emergence of the abstract concept of "reason of State" in the name of "public interest" or "general interest. There you can read: "...the King's job is to respond by all means to the needs of the subjects and put the public interest before his own idea of utility".

In general, we can consider that Juan de Mariana was not in favor of interventionism, and only agreed with it when it served to liberalize and eliminate privileges in a certain market, restricted by the privileges of a minority. In any case, he was categorically opposed to any intervention in private property obtained as a result of men's work .

5.2. Subjective rights in Juan de Mariana.

A subjective right is the ability of a person to do (or not do) something, or to urge (or prevent) another person to do something.

A subjective right can be derived from natural law, or the rights enjoyed by all people by virtue of existing as human beings with inherent dignity and the ability to transcend.

However, a subjective right can also be inferred from the positive law or set of laws written in a particular geographical area, comprising the legal creation of legislators, both past and present, compiled in the form of laws.

For the purposes of our working paper, we must point out that the political philosophy of the School of Salamanca and Father Juan de Mariana belongs to the realm of natural law¹⁷. Natural Law began with Aristotle ("Nicomachean Ethics") and was used by the Stoics and by the Roman Cicero in the context of Roman Law and the beginning of the rule of Law.

But, in depth, natural law was perfected by the thinking of the Christian scholastics with the universal, inherent and immanent rights of every human person, due to their existence as such and, therefore, which cannot be transferred and controlled by decisions of the King and "mutatis mutandis" by the modern State. Natural Law established four main individual rights in every human being: own life, free choice, private property obtained through labor, and equality before the law.

Therein lies the critical importance of the philosophy of the Spanish scholastics, since the protection of individual rights is especially important for the development of a civilized society¹⁸. "Iusnaturalism" (or natural law) allows for arguing solidly that citizens can oppose the King (or, mutatis mutandis, the State) and, therefore, that they need not morally submit to his political decisions when they go against their most essential civil rights.

17 The School of Salamanca took up the legacy of the first scholastics and developed its approaches to natural Law (or the rights of all persons by their very nature as human beings), focused on the study of justice and the existence of a higher justice above the laws that constitute human positive law. With them, a distinction began to be made between natural (or civil) law and religious (or supernatural) law, and an attempt was made to leave behind the irrationality of the medieval world. However, such approaches were unprecedented and were considered politically dangerous by the political power in sixteenth century Europe, where religion still permeated everything.

18 The gradual loss of the historic reference points of scholastic philosophy in the past centuries has provoked the sublimation of reason and empiricism over the individual rights of each person. For this reason, many successful philosophical approaches are justifying positivism, thereby favoring the implementation of the policies of "social engineering", the imposition of collectivist utopias in general, the crushing of civil rights in order to achieve an "arcadia" (or paradise in the world), and the destruction of wealth generated by the free exchange of goods and services and free socio-cultural interaction, which are the distinctive features of a civilized society.

That is to say, the political philosophy of Juan de Mariana was contrary to legal positivism¹⁹. This is especially important if we consider how rationalism, applied to the Law in the form of positivism in the twentieth century, degenerated into the legal implementation of moral relativism above certain inalienable rights of the individual²⁰.

Natural law is metaphysical and stands above any political planning, because individual rights are understood as logical and invariable institutions of civilized society. Only what the Law should be for an open society is taken into account, regardless of the positive law that the contradictory regulations of a King (or, "*mutatis mutandis*" the Administrative law legislated by the President or Parliament) might build in space and time.

Between the first edition in 1599 and the second edition in 1605 of his work "*On the King and the Royal Institution*", there were major changes in the economic policy of Philip III and his ministers, which forced the introduction of new concepts limiting the power of the King (or the modern State) in the work of Juan de Mariana.

Some monetary alterations²¹, which took place mainly between 1602 and 1605, raised many protests and triggered the qualitative leap in the work of Juan de Mariana:

- Following the latest bankruptcy of the Kingdom of Spain, on the 31st December 1596 the rim marking the edge of each billon coin (copper and silver alloy, *vellón in Spanish*) was eliminated, thus allowing the raising of additional money by minting more coins, a trick which allowed the Royal Treasury to pay off the State's debts without incurring in additional costs by having to purchase more silver. But also the real value of the coinage was reduced and the price of goods increased, thereby

19 (HAYEK, 1997, p. 252 and f.) According to the 1974 Nobel laureate in Economics, Friedrich A. Hayek: "... long before the term was coined by Auguste Comte to refer to the 'ethics susceptible of demonstration' (i.e. justifiable through reason) (1854: I, 356) as the only alternative to 'ethics revealed', Jeremy Bentham had already established the fundamentals of what nowadays we generally call moral and legal positivism, i.e. the constructive interpretation of legal and ethical schemes according to which the validity and content of same depends entirely on the will and intention of those who establish them. However, natural law (defended from religious, or scholastic, or agnostic, or even atheist viewpoints) can drive democracies to focus on the protection of individual rights, i.e. the defense of the inalienable and inherent right of every human being to their own essence and dignity. That is to say, the existence of moral institutions like the right to one's own life, liberty, private property and equality before the law.

20 (HAYEK, 1997, p. 247 and f.) We recommend reading this interesting book by Hayek, in which the author, from an agnostic standpoint, succeeds in explaining the origin of the "fatal conceit of modern intellectual rationalism" (page 249) and the processes of "social engineering" (page 251). He also explains the slow process of cultural evolution of a large and complex structure of social cooperation (page 279) which is what we call civilized society. He likewise argues for the need to respect certain moral institutions (page 278) in order for there to be an open society and, therefore, to avoid the serious consequences (page 255) caused by the socialist error (page 254) of falling into positivism, which justifies the imposition of laws that lead to a constructivist scientism (page 247), like communism or Nazism, collectivist ideologies that fatally try to control and drive the will of millions of people causing famine, death and destruction to achieve their political utopias. In any case, Hayek noted the importance of certain religious beliefs (page 363) as "guardians of tradition." Therein lies the importance of the scholastics' "natural law", since it establishes moral barriers that protect civilization against the "reason of State", positivism and scientism.

21 (GARCIA GUERRA, 1999, p.42). An interesting study published by the Bank of Spain, which describes the successive alterations to the quality of the coinage and the amount thereof in the late sixteenth and early seventeenth centuries.

reducing the subjects' purchasing power.

- On February 2, 1602 the King ordered the treasurer of Casa Vieja (Segovia) to mint 80,000 "Marks of billon coin", with half the weight and without any rim, two-thirds divided into "ochavos" and the remaining amount into "maravedies". This policy increased the number of coins by affecting the precious metal content (quality) of the coinage, thus making it easier for the State to repay its debts, but reducing the value of the money in the hands of citizens.
- The restamping of old coins began on October 10, 1602 and a new minting machine called "the Machine" (*El Ingenio*) was used, driven by water mills instead of using the manual hammer minting of other currencies. With the restamping, the billon coins with a date prior to the 1602 would double in value, which helped to the State pay its debts but, on the other hand, instantly reduced the subjects' purchasing power.
- Along with the change in face value of old billon coins, described above, there simultaneously began the minting of 100,000 new "ducats", a certain amount of which was advanced to the Royal Treasury. Likewise, there is a new entry dated April 9, 1605 regarding the minting of 60,000 "ducats" in exchange for an advance worth 20,000 "ducats" made in "*reales*" to the Real Court.

This inflationary policy sparked widespread protests among the Spanish population, and Juan de Mariana echoed the criticism, writing a new eighth chapter in his work "*On the King and the Royal Institution*", as he considered that such economic measures were an infringement against the property of individuals.

The eighth chapter of the second edition noted that private property was an inalienable right of the working man enjoyed by society, which was damaged by the King by devaluing billon coins²²:

- This monetary policy is not new and, Juan de Mariana explains that it has been conducted by the States since Roman times.
- In fact, nowadays, Central Banks subtly increase the money supply through uncontrolled credit concessions to banks (incorrectly backed by low-quality assets),

22 (FRIEDMAN, 1969, pp.217-218). Milton Friedman warned against the malleable behavior of the monetary authorities as they owed their positions to political and it was therefore not fully guaranteed that at any one time they would not carry out inappropriate monetary policies. Basing his conclusions on the study of monetary policy in the United States from 1867 to 1960, Milton Friedman proposed that the monetary authorities maintain monetary policies providing only an increase in the amount of money, quarter after quarter, just above the country's production increase. It is therefore vital to the economy of a country to avoid political pressures as they tend to cause inflation through an explosion in the amount of money in circulation over the rise in the production of goods and services. Milton Friedman called for taking monetary decisions automatically and impersonally. Also, Milton Friedman proposed the implementation of structural reforms, aimed at institutionalizing a strict pattern of precious goods (gold or equivalent) as an infallible method to prevent inflation, an idea that did not meet with political success. A benchmark (with 100% reserves by issuing currency) allows automatic self-adjustment of prices by increasing the amount of money. This discourages the excessive injection of money into the market, which mainly benefits the state in its funding, but undermines the citizens' purchasing power through inflation of prices.

and in quantities far above the increase in world production of goods and services.

- Thus, in a subtle and sophisticated manner, the monopoly on currency issuance by central banks not only serves to finance the excessive growth in State expenditure but also, as a collateral effect, leads in the long term to economic cycles²³ and financial bubbles²⁴.
- This is possible because the central banks provide a continuing excess of liquidity to investors and, therefore, help maintain an unreal feeling of wealth which drives the tendency for investors to speculate in the markets over the real possibilities of the annual increase in productivity and incomes in the world.
- As in the seventeenth century, such a monetary policy only benefited the State, by helping to finance its debts, and the most powerful classes which enjoyed preferential access to credit, before prices rise. But, on the other hand, it caused inflation, which caused a steady decline in the purchasing power of citizens.

In our opinion this second edition of his book "On the King and the Royal Institution" published in 1605, was a milestone in the history of economic and political thought in Spain and Europe, because it highlighted the importance of respecting the currency as an institution that allows trade exchanges in the market, and stressed the adverse effects of monetary disturbance, which has the effect of an inflationary tax on citizens.

As shown by the following quotes, the main aspects that highlight the enormous importance of his book are, first, the perfect identification of the problems of excessive tax burden and inflationary monetary policy and, secondly, his claim and defense of private property as a prerogative of the citizens against the interests of State.

Juan de Mariana pointed to property as the institution capable of limiting the intervention of political power in tax and monetary issues:

"...the prince has no rights whatsoever over the movable and immovable property

23 (HAYEK, 1936, p.139 & f.). The German text was published in 1933. He succeeded in providing a coherent explanation for economic cycles and financial crises, through the Austrian Business Cycle Theory which provides a solid explanation which has been supported by empirical data from successive economic crises. Hayek discussed the formation of economic cycles as a result of credit expansion by central banks and its effects on the economy in the form of bad investments which cause distortion of the pricing structure, the generation of financial bubbles in sectors with bad assets (which were not attractive with a natural rate but are quite attractive with the inflation interest), and the subsequent bursting of those financial bubbles when economic agents detect the bad assets inflation, where they have been invested incorrectly. Without a doubt, this theory is heir to the advances in monetary theory that was explained by the Spanish scholastics, like Juan de Mariana who explained in detail the inflation tax obtained by altering the metal content of the coin or the restamping of same..

24 Milton Friedman, "Natural Experiment in Monetary Policy Covering Three Episodes of Growth and Decline in the Economy and the Stock Market", Journal of Economic Perspectives, Volume 19, No. 4, Autumn 2006, pp.145-150. A great admirer and friend of Hayek, Milton Friedman empirically studied the effects of the inflationary increase of money on different countries, i.e. the formation of financial bubbles that have resulted in serious economic crises due to the development of economic cycles "caused" by central banks as a result of their monopoly on the minting of legal tender and the issuance and/or loan of money well above the annual increase in production of goods and services.

of the subjects that would allow him to take them for himself or transfer them to others."

(Mariana, 1981, p. 341)

Hence he deduces and describes a new conception of the relationship between the individual and the state around the principle of consent:

"...the prince cannot impose new taxes without the prior formal consent of the people. He must therefore request them, and not strip his subjects of their wealth, taking each day something at his own will and gradually reducing to poverty those who until recently were rich and happy."

(Mariana, 1981, pp. 341-342)

The principle of consent of citizens is a clear antecedent of parliamentarianism that, unfortunately, started declining in the European continent in the sixteenth and seventeenth centuries but managed to gradually take root in the British Isles. However, Juan de Mariana goes further, as he establishes the consent of citizens regarding the laws that directly or indirectly affect their property and are therefore crucial to their future. Hence, he was closer to the idea of a referendum to approve major State decisions—which have the potential to affect citizens' property—than to that of Parliamentary elections.

In times of enormous censorship of ideas which affected the policies of the King and his court, Juan de Mariana dared to defend the individual against the King—or modern State—when he behaved badly towards his subjects, like a Tyrant:

"...act as a tyrant, who measures everything in terms of his greed and assumes all the powers, and not as a King, who should moderate the authority he received from those who accepted it as such by reason and by law, and extend it no more than is possible ... I will only add that from these considerations it follows that the king cannot tamper with coinage without the consent of the people. Such adulteration is a form of levy which partially detracts from subjects' assets".

(Mariana, 1981, p. 342)

Juan de Mariana was ahead of the intellectuals of later centuries, seeking to reduce taxes and identifying the danger of inflationist taxes; he considered property as the institution that limits State power, long before the Scottish thinkers of the mid-eighteenth century:

"A tyrant encroaches on everything and takes everything as his own; a King confines his greed within the limits of reason and justice, rules over individuals, without taking their goods as his own, nor takes possession of them other than in those cases where he is entitled to."

(Mariana, 1987, pp. 32-33)

However, it was his work "On the alteration of the coinage" (*De Monetae Mutatione*), published in 1607, which aroused suspicion and distrust in the Duke of Lerma, a favorite of King Philip III, leading to his indictment by the Inquisition in 1610, for statements such as:

"Would it be lawful for the King to enter the granaries of individuals and take half of all the wheat and intend, by way of compensation, to have them sell the other half at twice the price as before? ... Well, this is exactly what is being done with the old billon coin, from which the king takes half, just by ordering its value to be raised, such that what was previously worth two is now worth four."

(Mariana, 1987, pp. 32-33)

6. PERSECUTION OF SCHOLASTIC IDEAS.

There was no continuity of the Economic ideas of the sixteenth century, founded on natural law, private property, free trade, low taxes, a healthy currency, non-military interventions, reduction of State debt, balancing the State budget, the principle of consent of citizens,.... and to which the Spanish intellectuals made the major contributions. These included, among others, the secular lawyer Fernando Vázquez de Menchaca, the monks and scholars of the School of Salamanca such as Francisco de Vitoria, Domingo de Soto, Martin de Azpilcueta, Luis de Molina and Fray Luis de León.

Some renowned independent thinkers from the late sixteenth and early seventeenth century, such as the Augustinian father Fray Luis de León and the Jesuit Juan de Mariana, were tried and imprisoned by the Inquisition.

Many other thinkers were forced to retract from or even stop teaching their ideas. And many books were included in the "Index of Prohibited Books", or were directly burned at the stake. Even the Jesuit Juan de Mariana, the highest intellectual of his time, acknowledged as such by Felipe II, who produced the book "The Mirror of Princes" for King Felipe III and was a scholar in Oriental languages, the Holy Scriptures and Spanish History, was imprisoned in the convent of San Francisco el Grande in Madrid for his stance against interventionist economic policies.

Juan de Mariana had powerful enemies in the court of King Philip III, due to his being the main heir to the economic thinking of the School of Salamanca and its ideas in favor of free trade as a means of fighting poverty, or of legitimate private property²⁵ obtained by steady work. His use of the old principle of consent, mainly to support his ideas on limiting the State in areas such as the excessive pressure of the public treasury and the alteration of the value of the billon coin, caused even greater anger among politicians.

²⁵ (FERNANDEZ, 2006, p.181-201).. The Poor Law of Queen Elizabeth I of England, in contrast to the pragmatics of Charles I in 1540 by the Royal Council, which issued 18 laws "For the relief and the gathering of the poor." They strictly regulated the conditions under which the poor could beg for alms, such as having taking confession, received communion, as well as suffering from the plague and being in a state of need. However, in view of the above, Spanish Scholasticism expresses its concern for the welfare of the poor and for trade as a solution to remedy it, as Domingo de Soto explains in 1545 in his book "Deliberation on the cause of the poor." (Pérez Moreda, 1988). Pages 709 to 712. Few people were starving, but there was malnutrition and lack of medical knowledge, which increased the mortality of diseases. In general, people had vitamin deficiencies since they ate few vegetables and fruits, owing to the established myth that they caused decay and flatulence

In an atmosphere of political and religious intolerance against new ideas, he was prosecuted for his ideas by the Inquisition, his books were publicly burned (1610) in the cities of the Kingdom of France and were withdrawn from public access in the regions governed by the Spanish Empire.

We can conclude without doubt that the innovative economic ideas in the sixteenth century came from the Spanish scholastics, but were suppressed during the seventeenth century in most areas of the Spanish Empire by the absolutist regime of Philip III and his favorite, the Duke of Lerma, a repressive effort that was highly successful in the Iberian Peninsula, Europe and the Overseas Territories.

However, it is likely that the scholastic writers reached significance at a European level. It should be noted, for example, that Father Juan de Mariana taught in Rome, Palermo, Paris and Flanders and also published some of his most controversial works in Germanic cities such as Mainz and Cologne.

Contrary to what was happening in those parts of Europe which were weighed down by the intransigence of the Church of Rome, in Protestant regions such as Flanders and especially in the Kingdom of England, certain customs and traditions which became firmly established among the population allowed for a more advanced political system, with a Parliament where the nobles and clergy were already present and which gradually allowed the entry of the middle class, introducing ideas and patterns of behavior geared towards economic growth.

In some way that has yet to be investigated, the ideas of the School of Salamanca succeeded in migrating during the seventeenth century to parts of Europe such as Flanders, the Holy Roman Empire (currently Germany and Austria), or Scotland and England, where the incidence of Protestantism made for a more favorable climate towards new reformist ideas in the religious, political and cultural spheres.

Subsequently, during the eighteenth century in Britain, Scottish authors such as David Hume and Adam Smith took up many ideas developed by the School of Salamanca a century and a half before, and published transcendental works which firmly established respect for private property and the fulfillment of contracts, which are the institutions that enable the development of industry and free trade and, ultimately, make civilized society possible.

7. CONCLUSION: THE VALIDITY OF JUAN DE MARIANA'S IDEAS FOR THE ECONOMIC ANALYSIS OF LAW.

Juan de Mariana was a Renaissance man in the sense that he carried out an intense multidisciplinary intellectual activity which, in general, criticized the moral deterioration and the traditions prevalent in the sixteenth and seventeenth centuries.

Juan de Mariana's numerous works attempted to purify the thinking of his time and aimed to return to the roots of Graeco-Latin culture through the simplicity, natural law and the evangelical moral of Saint Thomas Aquinas.

This Jesuit father took up the moral influence of the doctrine of Aquinas's first scholasticism and also the second scholasticism of the School of Salamanca, or modern scholasticism, led by the Dominicans Francisco de Vitoria²⁶ and Domingo de Soto²⁷, among many other scholastic thinkers.

Given its importance, his work should be reprinted, translated and upheld, and his life deserves to be made known, since there are not many clear examples, either in Spain or in Europe, of the struggle for the rights and individual freedoms of citizens against the absolute power of the state.

It was no accident that the Industrial Revolution broke out in Europe ahead of other continents, or started in England rather than Spain or France.

The break with Spanish thinking of the School of Salamanca in Spain led to the loss of logical coherence and careful analysis of the causal relationships underlying economic growth and, consequently, led to political decay.

The detailed study of the history of economic thought and, in particular, the study of the extensive work of Juan de Mariana should allow us to avoid repeating the same mistakes and thus:

- *Succeed in preventing the intransigence of single thought from imposing itself close to political or religious power.*

26 The Spanish scholastic Francisco de Vitoria (1483-1546) was the initiator of the School of Salamanca. He taught theology from his chair at the University of Salamanca based on the philosophy of St. Thomas Aquinas. He highlighted the natural order based on the freedom of movement of persons, goods and ideas. He introduced a novel approach to business and he understood that traders are not morally reprehensible, but on the contrary, they promote peace and contribute to the welfare of society..

27 The Spanish scholastic Domingo de Soto (1494-1570) put in writing the master classes and developed the thought of his master Francisco de Vitoria. He also followed the Aristotelian orientation of St. Thomas Aquinas, but like Francisco de Vitoria, he introduced the notion of human free will to choose between good and evil when it comes to addressing the problems of his time, putting an end to medieval concepts and making a strong defense of man's freedom. The School of Salamanca began to distinguish between the civil (or natural) and the religious (supernatural), a distinction that was not made in the Middle Ages..

- *Prevent state interventionism from flooding civil society, judicially legitimated by positive law.*
- *Prevent political intervention in free markets and public restrictions to the freedom of interaction of billions of citizens, and the prevalence of the privileges of families close to political power over the free right of citizens to exchange goods and services.*

In the sixteenth and seventeenth centuries, the scholastics' concerns were both to ensure free trade as a means of reducing poverty and to limit the State's role when intervening to repay its war debts. Today, when positive law, moral relativism, interventionism and political arbitrariness have succeed, the rational criticism of the Spanish scholastics is more valid than ever in order to return the power to the people and limit the size the State. The state is larger nowadays and therefore more sophisticated, exceeding more than 40% of GDP in most European countries, accounting for up to 52% of GDP in Denmark and 55% of GDP in Finland.

For these reasons, the notions of private property legitimated by the work of each person, of equality before the law, the principle of consent, the limitation of the State and, ultimately, the claim to recover one's private decisions, bravely expounded by Juan de Mariana, are even more valid today than during the XVI and XVII centuries

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